



WAYFINDING FOR **CIVIL JUSTICE**

Summary of submissions and response

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Summary

Overview of submissions

The Working Group (WG) received 46 written submissions, coming from a diverse range of perspectives. Nineteen submissions were received via email, 27 were received via the online survey, and 22 people participated at two hui hosted by the Chair of the Working Group.

Key changes made in response to consultation

1. The national structure (the National Civil Justice Observatory) is explained at the outset of the document.
2. Te Tiriti is acknowledged in a preliminary statement and further embedded into *Wayfinding*.
3. The principles (now called the Star Path – Guiding Lights) have been rewritten based on feedback. There are now four (versus five previously): Tātou-Tātou (replacing mahi tahi); Begin with the people (replacing ‘design for diversity’ and ‘people centred’); Be open to possibilities (replacing ‘innovate’); and Use evidence, evaluate (unchanged title). There is more explanation of each one and the guiding questions appear directly underneath to further elucidate the meaning and provide practical guidance for how they would work in action.
4. The goals (now Waypoints) have been rewritten based on feedback. There were many excellent suggestions on particular wording and some very helpful overarching comments about how these should be written. In response, we have reshaped this section to ensure it is outcome focused, it does not create or embed a sense that there is a hierarchy of civil justice, it is community focused and embeds Te Tiriti. There are now four overarching Waypoints with a measurable outcome (which was also submitted as necessary) followed by the suggested actions:
 1. Legal assistance is accessible, appropriate, and integrated
 2. Providers of legal assistance understand and serve the needs of their communities
 3. Dispute resolution—from initiation to enforcement—is accessible and equitable
 4. There is knowledge about the system to ensure we can monitor, evaluate, and improve

Next steps

Timeframe	Step
13 October – 3 November 2022	Stakeholder re-consultation on revised strategy
November 2022	Stakeholder feedback incorporated into strategy
December 2022 – February 2023	Strategy endorsed by the Access to Justice Advisory Group, preparations for the launch of the strategy
Early-mid 2023	Launch of Wayfinding for Civil Justice strategy

Consultation Process

The Working Group ran a consultation process from 1 April to 30 June 2022.

Interested people and organisations were invited to submit their views via email, an online survey on the Ministry of Justice website, and/or attend one of two hui in May 2022 hosted by the chair of the Working Group, Dr Bridgette Toy-Cronin.

Process of submissions analysis

Submissions were analysed by Dr Bridgette Toy-Cronin, with secretariat support from the Ministry of Justice.

Profile of submitters

The WG received written submissions from individual users of justice services, individuals working to improve access to justice, and organisations. Submissions were received via email, and an online survey as shown below.

Type of submitter (online survey)	Number of submissions
Individual (working to improve access to justice)	19
Individual (user of justice services)	4
Organisation	4
All submissions	27

Type of submitter (email submission)	Number of submissions	
Individual (working to improve access to justice)	3	1 submission received identified as both
Individual (user of justice services)	1	
Organisation	14	
All submissions	19	

Type of submitter (combined)	Number of submissions	
Individual (working to improve access to justice)	22	1 submission received identified as both
Individual (user of justice services)	5	
Organisation	18	
All written submissions	46	

Organisations who submitted included:

The Arbitrators' and Mediators' Institute of New Zealand
Backbone Collective and The Auckland Coalition for the Safety of Women and Children
Citizens Advice Bureaux New Zealand (Ngā Pou Whakawhirinaki o Aotearoa)
Community Law Centres o Aotearoa
Community Law Canterbury (Te Ture Whānui o Waitaha)
Cooper Legal
Government Centre for Dispute Resolution
Legal +
National Council of Women of New Zealand (Te Kaunihera Wahine o Aotearoa)
Netsafe
New Zealand Bar Association (Ngā Ahorangi Motuhake o te Ture)
New Zealand Council for Civil Liberties Incorporated
New Zealand Council of Christian Social Services
New Zealand Law Society (Te Kāhui Ture o Aotearoa)
Pacific Lawyers Association
Porirua Kāpiti Community Law Centre
Restorative Practices Aotearoa
Wellington Indian Association

Online hui

As part of the consultation process, stakeholders were invited to attend one of two online hui hosted by Dr Bridgette Toy-Cronin and featuring introductions by the Chief Justice and/or Secretary for Justice. These hui took place on the 3 May and 24 May 2022.

Across the two sessions, 22 people participated—their interest ranging from being litigants themselves, to being members of community groups and/or the legal profession. Their views have also been incorporated into this document.

Content of submissions

General comments

A number of submissions made general comments. A few of these included narratives of personal experiences with the justice system, recommendations for further reading, or general encouragements towards a certain philosophical approach (e.g. restorative justice). We thank the submitters for sharing these and have considered them and read the recommended texts. Other general comments were about definitions and scope, which we address here, before turning to the feedback on the specific questions we posed.

Defining civil justice

Three submitters wanted a clearer definition of what was meant by “civil justice”. This is something the Working Group had spoken about at some length. We revisited the discussion in light of the submissions. We have favoured keeping an open approach to civil justice because:

- The idea of civil and criminal justice is a colonial construct and one that is not understood by the public. As the call for more clarity makes apparent, there is no agreed definition. We can exclude criminal as there are clearer boundaries around what is criminal but defining civil justice is more challenging;
- Drawing hard boundaries around what is civil justice and what is not undermines a holistic view of what justice problems mean to the community and how they affect Te Whare Tapa Whā. The international literature increasingly recognises the social and economic benefits of access to justice (and the costs to society and the individual when justice needs are not addressed).¹ Drawing hard boundaries around what is in and what is out therefore undermines the effort to see the linkages into other areas of policy and concern and the solutions that might lie there as well.

We have therefore maintained the expansive definition of civil justice and hope that a variety of stakeholders working in different parts of the system will see themselves as included in Wayfinding.

Statement of problem

Some submitters wanted a more detailed statement of problem in the document. In the original draft, we included a short statement which references some of the key recent attempts to define the problem. We have decided to retain this statement, rather than making a more detailed statement. As the submissions themselves showed, stakeholders who are positioned in a particular part of the complex web of civil justice (for example, community focused or courts focused) have quite different perspectives on where the crux of the issues lie. The statement of problem we have written takes a deliberately broad view, encompassing all these perspectives. It references previous work that has defined the problems in more detail, for those readers who are interested. It otherwise takes the position that this is a future focused strategy, the motivation for which is to move away from repeated attempts at definition and into action to improve the situation.

Cataloguing existing work

One submitter suggested that rather than develop Wayfinding, we should bring together the current and existing body of work with the aim of producing a central catalogue showing what work has been done or is being done and by whom. This has previously been attempted including recently by the NZLS. It is very difficult

¹ OECD Report 2019 Equal Access to Justice for Inclusive Growth.

to do at a particular point in time. We agree that this is important information and that is why it is part of the role of the Observatory to do this, on an ongoing basis.

Defining *Wayfinding*

One submitter requested clarification on what type of document *Wayfinding* is intended to be. We consider *Wayfinding* a strategic framework. It is an aspirational blueprint to help chart the course towards improved access to justice in Aotearoa New Zealand. It is intended to leave room for stakeholders to define their own work and respond to their communities, while also steering the sector in a common purpose. It includes goals, indicators of success, and suggested actions for meeting these goals, while not being overly prescriptive. This is to be consistent with the kaupapa of a bottom-up stakeholder-led strategy.

Reconsidering the timeframe for *Wayfinding*

We noted in the consultation document that the proposed timeframe is five years. One submitter queried this and wondered what would happen next. We have maintained the five-year timeframe because:

- It is a stakeholder-led strategy and we cannot expect to secure the necessary funding for longer than five years without first trialing and testing it.
- It has an annual hui as part of the structure (see the discussion on National Structure below), which provides regular opportunities to revisit and update as it progresses. This builds in the flexibility to decide what will happen next, without needing to go beyond a five-year framework now.

We do recognise that five years is unlikely to be a conclusion to the work to improve access to civil justice and we have therefore renamed the “goals” as “waypoints” to recognise their status as points on a journey.

National structure

What the Working Group asked

We suggested that for *Wayfinding*'s aims to be achieved, there needs to be a national structure and suggested the following possibilities:

- Establishing or strengthening an existing body to coordinate reporting of initiatives and sharing information. This would likely involve funding one staff member with responsibility for carrying out tasks such as:
 - overseeing a national database for stakeholders to submit to and informing the sector of planned and current work matched against the goals in *Wayfinding*
 - compiling an annual report celebrating the successes of mahi completed and progress on goals, including completion or work towards any of the suggested actions, and reporting on any problems encountered that others can learn from
 - running a clearinghouse that provides a central repository of data and evaluative material.
- An annual forum celebrating the successes of mahi completed, supporting connection between organisations, and monitoring progress against the goals.

We sought views on the purpose and form a national structure could take. People were asked to respond to the following questions:

1. How necessary do you think a national structure is to ensure the success of *Wayfinding* for Civil Justice?

2. If you consider a national structure is necessary, what form and scale do you think it should take?
3. If a national structure extended the work of an existing organisation or body, which organisation or body do you think would be most appropriate?

What submissions said

Submitters strongly supported the idea of a national structure. Submitters raised various suggestions for purposes the national structure could fulfil:

- Oversee and monitor the civil justice system and a place for issues and complaints to be raised
- Advocate for the rights of service users, and report to government on both the achievement and lack of traction on the Wayfinding for Civil Justice goals
- Share insights, research, and provide visibility of work across the sector
- Track key trends and be accessible to the public
- Report against goals of Wayfinding

Submitters showed strong support for a national structure which has credibility and independence. Formats suggested included:

- An independent government agency
- A permanent member of staff and committee of volunteers (or forums)
- Representatives from every region of Aotearoa New Zealand
- A Wayfinding for Civil Justice committee, headed by a Deputy Secretary of the Ministry of Justice, which brings together representatives of key contributors inside and outside of government across the civil justice sector
- A structure which has 15-25 staff focusing on community engagement, research, advocacy, systems design, budgeting, and cost projections
- Local access to justice committees to create sense of ownership of Wayfinding
- A partnership between the government and a non-government Māori organisation as a demonstration of the commitment to embedding Te Tiriti o Waitangi.

One submitter suggested that the national structure should have a separate component that focuses on sexual violence and family violence as this is a specialist area. Another submitter suggested two hull approach—a Tangata Whenua branch and Tangata Tiriti branch of governance—with a small team to ensure that organisations are not being put under extra pressure to complete work or report back. Representatives could include people who are involved in the justice system—incarcerated people, victims, offenders, court staff. This could include a clearinghouse, where stakeholders can access information about who best to work with and who to refer people to.

Submitters also liked the idea of the national structure providing regular contact, including:

- Weekly emails with updates and stories to ensure Wayfinding is front of mind for practitioners
- Regular hui/workshops (or annual forums). This idea was supported by many submitters.

Submitters also provided views on how to ensure *Wayfinding* would be successful. Suggestions included ensuring direct connections between those working in the civil justice sector and funders making resource

allocation decisions (i.e. Ministry of Justice and MBIE), and regular feedback from stakeholder groups around *Wayfinding's* effectiveness. Also considered important was ensuring goals are set by stakeholders and that they are about quality, not quantity, and ensuring voices of people who have been through the justice system are uplifted.

One submitter considered that there is a general lack of tone towards advocacy in the *Wayfinding* consultation document, and they considered that this area is one in which strong advocacy will be required for the strategy to be successful. Several submitters commented that a national structure would have to be adequately resourced in order to work.

Submitters suggested the following organisations as potential homes for the new structure:

- Ministry of Justice—responsible as an overseer and coordinator of reform of the justice sector so would be a good candidate. Others were concerned it was not independent and was a participant in and funder of the system.
- Ministry for Business, Innovation and Employment or a Crown Entity—a step removed from Justice but financially expedient.
- New Zealand Law Society (NZLS) or Auckland District Law Society (ADLS)—new branch or sitting with ADLS. NZLS considered that it was not the appropriate body (given the *Wayfinding* work spans beyond the provision of legal services) and it already has a significant workload and defined remit.
- A university—suggested by some to ensure independence, role fitted well with universities' purpose. One submitter cautioned that it will be important that any university-based national structure remains independent (and is not seen as being aligned to that particular university).
- Citizens Advice Bureau (CAB)—one submitted (not the CAB) that CAB would be a good candidate as it is at the grass roots of legal advice in the community.

Working Group response

We have included in *Wayfinding* a proposal for a National Civil Justice Observatory (the Observatory). While we agree that the government needs a stake in this work, we found the submissions that the Observatory should be outside of government persuasive. By remaining independent of the government, the Observatory can:

- continue the stakeholder-led intentions of the *Wayfinding* strategy
- ensure stakeholders have ownership over *Wayfinding* by enabling stakeholders to submit to and inform the sector of planned and current work matched against *Wayfinding's* goals and report on progress being made without feeling like they are being monitored by government
- encourage stakeholders to provide free and frank insights on the challenges and structural issues they observe as part of their work with the civil justice sector
- provide stakeholder-driven recommendations to the government and facilitate a unified stakeholder voice to advocate for change
- avoid any prospect that stakeholders are reluctant to share data or information with government.

The Observatory model we have included in the new draft of *Wayfinding* reflects the weight of submissions in favour of a 1FTE position with some kind of oversight body. We found the submissions that a university was the best host institution persuasive, and note this is the model Canada has used.

We have not resolved the question of how the oversight of the Observatory should be structured. In Appendix 1 of the new draft, we have criteria and three suggestions for models and seek further feedback on this issue.

We note that there could also be regional stakeholder networks established to help produce reporting against the *Wayfinding* goals and feed into the National Observatory's reporting. These networks could also act as another way for people to connect and share ideas. The networks could be set up overtime if there is an appetite for an additional networking structure outside of the annual hui. We propose raising this issue at the first hui.

Reflecting Te Tiriti o Waitangi

What the Working Group Asked

In the *Wayfinding for Civil Justice* strategy consultation document, we noted that one of the principles strongly supported by the March 2020 Workshop participants was Te Tiriti o Waitangi.

We chose to embed Te Tiriti into the foundation of *Wayfinding*, rather than as a separate principle, so that it infuses the work and reduces the risk of it becoming a 'tick-box' exercise. We welcomed feedback on this choice and sought views on how Te Tiriti could be reflected in the *Wayfinding* strategy.

People were asked to respond to the following questions:

4. How should Te Tiriti o Waitangi be reflected in *Wayfinding for Civil Justice*? Do you agree with the approach suggested of embedding Te Tiriti o Waitangi into the foundation of *Wayfinding for Civil Justice*, rather than having it as a separate principle?

What submissions said

Many submitters agreed that to enable positive transformation, Te Tiriti must underpin *Wayfinding* by being clearly visible throughout. Submitters generally favoured the approach of embedding Te Tiriti, with a couple of submitters suggesting a combined approach of embedding it and having it as a separate principle. One submitter suggested foregrounding the legacy of colonisation at the beginning of the document.

Many submitters who commented on this topic emphasised the importance of a non-colonial approach to a national civil justice strategy. One submitter commented that anything less than a Whare Māori and Te Tiriti approach will become token, and that a true te Tiriti model is radically different from colonial business as usual.

Other suggestions regarding Te Tiriti included:

- More clarity on what Te Tiriti meant in the context of *Wayfinding*
- Ensuring people who are using *Wayfinding* understand Te Tiriti so it is not overlooked

- Ensure Māori people and Māori organisations have the resources and autonomy to do their work and come up with their own solutions
- Ensure every single contributor to the project is an expert in tikanga and te ao Māori
- Ensure the needs and beliefs of Māori are central to the focus and goals of *Wayfinding*
- Ensure *Wayfinding* has a clear commitment to biculturalism in its foundations, actively supporting and enabling the growing of the tino rangatiratanga sphere at every level
- Use tikanga principles to embed Te Tiriti in the strategy.

Working Group response

We found the submissions very helpful on this point and used them to guide our further discussions. We have not added Te Tiriti to the principles as there was limited support for this. We were also concerned that talking about Te Tiriti as a principle could be confused with discussion about Treaty principles (although we have removed the name “principles” from this section to reduce this confusion), and we remain concerned it would become tokenistic rather than embedded in the work.

As Te Tiriti has a mana in its own right, and is not specifically about the justice system, we took up the suggestion of foregrounding the colonial legacy of our system and the role of Te Tiriti in decolonisation. We spent further time trying to embed a decolonisation lens throughout the document. We also paid attention to ensuring that *Wayfinding* left open the space for efforts to decolonise to continue to evolve. As the basis of *Wayfinding* is stakeholder autonomy—that within the framework they will conduct the work as they see fit—it supports rangatiratanga and efforts by Māori to find their own solutions to improving access to justice. We note that the design of the Observatory also needs to ensure adequate Māori representation and participation.

Principles

What the Working Group asked

One of the activities at the March 2020 workshop was to generate agreed principles to guide the development of the national strategy. A number of starting ideas were posted on the walls along with blank sheets for new principles to be suggested. Participants had the opportunity to write comments about what the various principles meant to them and were given stickers to vote for the five principles they considered most important in guiding change in the civil justice sector.

We used this feedback in creating the following principles to guide the approach to achieving the goals in *Wayfinding*.

Principle	Purpose
People centred	The civil justice system and its reform must start with the people who use the system, not with the needs of representatives and institutions. People must also be seen not just as individuals, but as members of whānau and wider communities. Only through maintaining this people-centred focus can we develop a civil justice system that is accessible and meets people’s needs.
Design for diversity	When thinking about access to justice in Aotearoa New Zealand, we need to maintain a focus on the diversity of our society so that our mahi will meet the needs of all our people. Not every initiative can meet every need, but we need to be mindful of inclusion and ensuring we do not leave people

behind. There are many factors that can make it easier or harder for someone to access justice, including ethnic group, language, disability, gender, geographic location, income, education, and more. Solutions need to be designed with the diversity of needs in mind.

Mahi tahi – work together	We are a small nation working towards common aims. It is important we are aware of the work that is planned, ongoing, or completed so that others in the sector can plan work to complement, and/or collaborate with, those efforts.
Innovate	We cannot expect to improve access to justice by using the same tools and approaches we have always used. If we want things to be different, we need to do things differently. We can look for frameworks and responses to improve access to civil justice from other sources, including: Te Ao Māori, other cultures’ dispute resolution practices, other countries’ responses, and academic disciplines outside of law.
Use evidence, evaluate	Civil justice reform needs to be based on evidence of what works and what does not work—not on well-intentioned guesswork or stakeholder intuition. We can build on this knowledge by engaging in research that draws on different research methodologies, including Kaupapa Māori.

We sought feedback on the suggested principles and encouraged stakeholders to put forward their own. We asked:

5. To what extent do you identify with the principles that we have stated to guide the approach to the goals? Do you think they are relevant to your work?

What submissions said

The submissions generally strongly supported the principles. Overall, most submitters found the principles listed in the Wayfinding consultation document to be “relevant” or “very relevant” to their work. Some submitters found the principles difficult to understand the meaning of and suggested they could be better defined. We have summarised some of the main themes of these submissions below but tried to keep the document of reasonable length so have not listed all submissions here.

Most submitters identified or strongly identified with the “people centred” principle.

Several submitters mentioned that the justice system is not designed to cater for people centred justice. Several submitters considered that civil justice is focussed on the professionals who work in the area rather than the people who the system is there to serve, meaning documents, language, timeframes, and decisions are largely inaccessible to those who do not have legal representation or understand how to navigate the system. One submitter considered that people focussed should include the people providing support to people and another mentioned that established representatives’ views and knowledge does not mean that the system is not people centred.

Several submitters highlighted the importance of equity in this principle, and that the system should be centred around those who have the greatest legal needs. One submitter mentioned the importance of ensuring that disabled people are specifically incorporated into this principle, and another suggested the principle include “whānau-centred” or “child and young person centred”.

Several submitters suggested linking the notion of people centred with Te Ao Māori principles and one submitter put forth the concept of Te Whare Tapa Whā, which recognises the relationships between

individuals, their whānau, and their communities. The submitter considered that this approach could better encourage the inclusion of whānau and community where appropriate. Another submitter highlighted that different communities have different needs and resources and asked the Working Group to ensure that the *Wayfinding* framework is flexible enough to meet the needs of diverse communities.

Several submitters found it difficult to discern exactly what the principle is intended to mean and one queried whether it applied to more than just individual participants or representatives of participants (for example companies, organisations, government departments).

Most submitters identified or strongly identified with the “design for diversity” principle

Many submitters considered that the needs of disadvantaged populations (i.e. those who are most marginalised and under-served by the civil justice system) should be explicitly prioritised in the *Wayfinding* strategy. In particular, this would help with the prioritisation of initiatives that support improved access to civil justice for disabled people, refugees, ESOL speakers, gender minorities, people with low levels of literacy, and people experiencing economic hardship.

Several submitters commented that the principle needed to be more clearly defined. One submitter said that the law does not apply differently to diverse groups of people, and so they were unsure what the principle would look like in practice. Another submitter considered that the way the principle was framed focuses the problem on the person—not the system that creates the barrier—and that the way systems are set up makes it harder for people to access justice, not factors about the people who try to access them.

One submitter commented that no group or individual should be disadvantaged or exempt from an impartial, bias-free, and honest judicial system simply because they do not fit into a preconceived idea. One submitter commented that it is particularly important that this principle should include the ability for the justice system to be culturally appropriate and considerate. A submitter suggested this could be achieved through co-design of services. They suggested that Māori, Pasifika, and disadvantaged groups (e.g. people with mental illnesses, drug addicts, neurodiverse people) should be involved in co-design.

Another submitter considered *Wayfinding* provides an opportunity to acknowledge, in particular, the ways that our colonial justice system has significantly alienated and disadvantaged Māori.

Most submitters identified or strongly identified with the “mahi tahi” principle

Several submitters agreed that a lack of collaboration between systems and services is a major issue and leads to a lot of wasted time. These submitters considered that in order for the system to really improve, there needs to be more cooperation and communication, and active relationship-building between organisations, at all levels. Some expressed reservations about the name and suggested alternatives: “tatou tatou” or “mahi tatou tatou”.

One submitter considered that the principle should encourage people and organisations to work to their strengths, and that development in this area should, where possible, leverage off existing organisations and existing strengths. They considered that new initiatives and developments should first look to see whether existing programmes can be enhanced, or capability can be increased, before turning to new programmes.

Another submitter spoke about the importance of a feedback mechanism to find out where we are failing and create better outcomes, the group need to be able to talk to all walks of life and gauge experiences and find

and fill gaps. Another submitter mentioned that the recommendations of the Open Government Partnership National Action Plan could be useful.

Most submitters identified or strongly identified with the “innovate” principle, however there were some caveats and cautions expressed

While the principle itself had wide support, the use of the word “innovate” raised concerns among many submitters. It is heavily associated with development of technology and there was concern that it was being used to signal the same meaning here. Other submitters were concerned that this principle may mean innovation that is inefficient or done for innovation’s sake, innovation that might amount to uncontrolled experimentation, or might amount to ‘rearranging the deck chairs’.

Most submitters identified or strongly identified with the “use evidence, evaluate” principle

Several submitters thought this principle was a given, and that evidence is the key to justice and the only way to learn and improve. Other submitters noted that both qualitative and quantitative methods to gather evidence should be used; the importance of working with indigenous experts and/or experts in Kaupapa Māori services when evaluating systems and programmes.

However, one submitter cautioned that this principle may be problematic and lead to inflexible applications of policy based upon outdated data.

Other principles suggested

Submitters suggested the following additional principles

- Human-rights based
- Tikanga-based (several submitters supported this)
- Rangatiratanga
- Cost-efficiency
- Equality
- Equity of access
- Affordability
- Participation
- Empowerment
- Sustainability
- Ease of navigation to the right solution
- Partnership
- Rule of law (including openness, impartiality of decision-making, knowledge of the law, and predictability of cases being decided in accordance with the law)

Working Group response

This section has been significantly redrafted. In particular we have:

- Clarified the wording for all the principles to provide more explanation.
- Changed the name. The idea of “principles” was also causing confusion, so we have renamed this section. Drawing on the wayfinding theme, this section is now called ‘Guiding Lights – Navigating by the Star Path’, referring to the idea of guiding lights that ensure work does not go off course.

- Considered the other suggested principles to ensure they were reflected either in the redrafted guiding lights or elsewhere in the document.
- Brought the questions that were previously in the appendix into the body of this section as they demonstrate how to apply the guiding lights.

For the specific principles (now guiding lights), the changes made were:

“Mahi tahi” has been changed to tātou-tātou. This rewording is used as the basis for making the “we” in the document clearer, which was a point of feedback several submitters made. The wording of this principle was not clear enough because submitters interpreted it in a number of different ways, for example believing it was suggesting who should carry out work (established versus new stakeholders). This was not the intention, so we have reworded this principle to make the intention clearer.

“People-centered” and “design for diversity” caused confusion. Submitters had a number of different interpretations of these two principles, and we realised that, despite the initial intent, they had some confusing overlaps. We have now distilled these two principles down to a new single guiding light, “begin with the people”. Drawing on the feedback, we have rewritten the description under this principle. This includes explicit reference to equity, strengthening the description around seeing people as part of communities, and explicitly recognising people may be represented in the justice system.

“Innovate” has been changed to “Open to Possibilities”. This reduces the likelihood that it will be interpreted as referring to technology, which was not the intention, but we agree is a risk. It also leaves more space for reviving old ideas and borrowing ideas from outside the colonial legal structure. Open to possibilities also encompasses stopping doing something that might be harmful, rather than necessarily always doing something new.

“Use evidence, evaluate” has been retained given the strong support for this principle. The importance of Kaupapa Māori approaches was mentioned in submissions and has been retained in the new draft, wording to make it clear that “research” includes quantitative and qualitative, as well as other, approaches. While one respondent cautioned it may lead to inflexible applications based on outdated data, we do not see this as a significant risk. Another respondent questioned whether this principle was directed at saying we needed more systems and more financial accountability. That is not the intention and hopefully that is clear in the wording.

Goals

What the Working Group asked

Wayfinding envisages that through collaborating to develop common goals for our civil justice system, we can align the mahi of organisations across the country. Each organisation can select goals that are most relevant to them and work towards them in the way they consider most effective.

We suggested seven goals divided into four areas of focus:

Focus areas	Goals
1. Community knowledge and understanding	1.1 Increase communities’ knowledge to support dispute prevention and early resolution.
	1.2 Increase community access to legal information and self-help tools.

2. Legal assistance	2.1 Increase the availability of affordable legal services to help people solve their civil justice problems.
	2.2 Increase legal service providers' knowledge and understanding of communities and their needs.
3. Dispute resolution	3.1 Increase the availability of information about the range of dispute resolution mechanisms available in Aotearoa New Zealand.
	3.2 Ensure equitable access to the courts.
4. System knowledge	4.1 Increase knowledge of how the system is currently operating and evaluate and monitor innovation and change.

People were asked to respond to the following questions:

6. To what extent do you identify with the goals stated? What other goals do you think should be added?

What submissions said about the goals in general and the Working Group's response

There was some helpful general feedback about the goals that led us to rethink how these were set out. The key critiques raised were:

- The suggested actions are helpful but might be better situated with the guiding questions as starter points for how to begin implementing Wayfinding
- That the goals focus heavily on process rather than articulating specific outcomes that are hoped will result from the efforts, particularly the court focused goals but this criticism was levelled at the document as a whole
- The way the goals are set out might suggest that there are tiers to the system—self-help for some and assistance and then dispute resolution for others—so they need to make it clear that the goal is equal justice for all
- There is a need to strengthen the Te Tiriti lens in the goals
- Greater emphasis needed within the goals to reflect community needs and perspectives (which also dovetails with strengthening the Te Tiriti lens)
- The goals need to be measurable if Wayfinding is to be reported against.

In response to this feedback, we reshaped how the goals were drafted and there are now four overarching goals. We have tried to make these more outcome focused (and have therefore drafted them as outcomes), with indicators of success. We have also made efforts to respond to all of the other general points in the re-draft. The goals are now called “waypoints” to reflect the wayfinding theme but also to acknowledge that in five years' time, we will not be at a final destination, but on a journey towards improved access to civil justice.

What submissions said about “Community knowledge and understanding”

Most submitters identified or strongly identified with the goal of “Community knowledge and understanding”. Several submitters thought this goal was a must. One submitter stated that it is a laudable goal to provide community information to assist with the resolution of disputes without the need to resort to the more formal decision-making and dispute resolution processes, including having to instruct a lawyer. Another mentioned that there is great untapped capacity within the community to respond and contribute to dispute prevention and early resolution.

There were a range of submissions regarding legal information:

- Legal information does not always set out the process or pathways for solving legal problems and is not always sufficient or appropriate
- There is plenty of legal information already
- Legal information is not a substitute for one-on-one advice, only supplementary
- Legal information should be provided to healthcare workers as they can help people understand this information
- Legal information needed to be linked to legal advice
- Online legal information would lead to digital exclusion for the most vulnerable.

Some supported the idea of an online platform/portal while one submitter thought it was too specific.

Submissions regarding awareness of dispute resolution paths included that:

- This is important so people are empowered with options to solve their problems
- Early dispute resolution can be dangerous for victim-survivors and children.

Several submitters suggested civics education in schools could give people better understanding of their rights and knowledge about what options were available for resolution of issues. Another submitter thought the mention of civics education in school went beyond the sphere of civil justice and into education policy and raised questions about where the boundaries of *Wayfinding* lay.

Working group response to feedback on “Community knowledge and understanding”

We have redrafted this to now effectively collapse what were goals 1.2 and 2.1 into a new waypoint called “Legal assistance is accessible, appropriate, and integrated”. This responds to submissions about this goal and about goal 2.1 (increased availability of legal services), which we turn to shortly. The feedback regarding 1.1 (increasing the community’s knowledge of dispute prevention and early resolution) is folded into the redrafted dispute resolution goal (now Waypoint 3).

Waypoint 1—“Legal assistance is accessible, appropriate, and integrated”—is redrafted to reflect the feedback on legal information. It defines what is meant by legal assistance and states that online assistance is not a substitute for in-person assistance, but supplementary.

We have retained the reference to civics education, although made sure this is not limited to schools, because there has been wide support for this goal at both the 2020 workshop and in the submissions and because Community Law has previously undertaken this work, suggesting it is something properly in the part of the scope of *Wayfinding*.

Several submitters considered that the goals relating to better legal information might be suggesting that all people could effectively use this education or information to solve their problems without further assistance. We agree that there are many people who cannot effectively use these tools unassisted. We have therefore combined what were the two separate goals into one goal to make this relationship clearer.

What the submissions said about the “Legal Assistance” goal

Most submitters identified or strongly identified with the goal of “Legal assistance”. Almost all submitters who commented on this goal indicated that this is an area where substantial investment/funding is required.

Several submitters said that there is currently no equitable access to the courts. Some submitters mentioned cost/funding as a barrier to equitable access to courts and mentioned that people who cannot afford a lawyer but are ineligible for legal aid have limited access to the courts. While some submitters mentioned the value in having lawyers present for proceedings, others highlighted issues with lawyers and preferred non-legal options.

There were specific suggestions around how to improve accessibility of legal services:

- An expanded civil legal aid initiative should be put in place that sees junior lawyers doing civil work (similar to duty lawyers and junior criminal lawyers) to provide a training ground for new lawyers
- That regulation of legal services does not stifle the commitment of people in communities to help and support each other on a free or voluntary basis, both formally and informally
- That more clarity is needed about advice versus information and therefore what constitutes a service only a lawyer can provide and what can be provided by a non-lawyer
- That early, high-quality triage (i.e. identifying the severity of the problem and referring people to the right assistance at the right time) is an essential aspect of promoting equal access and should be included within the legal assistance goal
- A franchise model for community law or a public defenders equivalent model
- Rather than provide incentives, we should acknowledge and celebrate lawyers who provide legal services for free or at greatly reduced rates, in order to build a positive culture within the legal profession of contributing to access to civil justice.

One submitter suggested some minor amendments to the framing of the legal assistance goal to clarify that evaluation would lead to the identification of options. They considered that framing in terms of ‘solutions’ indicates a problem with these services that needs to be solved and suggested evaluating current non-lawyer provided services and providing evidence-informed options to improve and/or extend these services.

The sub-goal “Increasing legal service providers’ knowledge and understanding of the community and its needs” was more divisive. Half the submitters agreed this was “relevant” or “very relevant” while the other half said it was “neutral” or “irrelevant”. This probably reflects the split in responses between submitters who said that service providers already understand their communities’ needs, and those who considered that they did not. Those who said that understanding was lacking referred to:

- The need for culturally appropriate legal services were mentioned by several submitters. One submitter commented that lawyers are out of touch with the needs of Māori and that there has been an underinvestment in producing Māori lawyers and funding them to provide for Māori clients.
- Lawyers need to support their clients in a way that does not add to their trauma. Other submitters mentioned that there are a lack of legal aid lawyers and community law centres, in particular in rural communities.

Working group response to the submissions about the “Legal Assistance” goal

There was a split in responses between submitters who said that service providers already understand their communities’ needs and those who said they currently had insufficient knowledge. Given there were submitters who saw this goal as important (particularly those submitters from community groups), it has been retained but separated out. It now appears as Waypoint 2 “Providers of legal assistance understand and serve

the needs of their communities” and the other comments were integrated into the redraft of what is now Waypoint 1 “Legal assistance is accessible, appropriate, and integrated”.

There were a number of comments that went to the suggested actions:

- The suggested action of increasing legal aid funding had strong support from some submitters (including those who saw it as “the” answer) and resistance from others, who saw it as lacking a user-focus. We have modified the suggested action to include a more user-focused view of legal services while retaining reference to legal aid.
- There were conflicting submissions over the suggested action about regulation of legal services providers with some submitters wanting this to focus more on access to justice and another wanting it to include reference to attracting lawyers to providing legally aided services. Given the guiding light “begin with the people”, we have favoured the emphasis on access to justice. We have however reworded the action regarding provision of affordable legal services, which captures this concern.
- That legal education offered at law schools and professionals included education on the problem of access to justice, which we have added.
- That there should be improvements to the accountability of legal services providers and decision makers, which we have added.

What the submissions said about the “Dispute resolution” goal

Most submitters identified or strongly identified with the goal of “Dispute resolution”. There were three common themes that came through the submissions on this goal:

- Ensuring that it was drafted broadly enough to encompass all forms of dispute resolution, particularly including early resolution/prevention and that all these mechanisms were part of the tool kit rather than being framed as alternatives to court or in a hierarchy with courts at the top. The term “dispute resolution mechanisms” was also queried by one submitter.
- Ensuring that it was clear that not all dispute resolution mechanisms were suitable for all disputes. In particular, a number of submitters raised concerns about mediation not being appropriate in all cases, although we also note that others strongly stated the case for mediation.
- The importance of emphasising lack of access to courts due to cost including the lack of legal aid and the business model of lawyers.

There were a range of other suggestions (each by a single submitter):

- Information about dispute resolution options should include information about the cost of those options
- Dispute resolution services must be bigger and more capable
- There are a large number of organisations already working in dispute resolution and the focus should be on identifying and working with those organisations
- Difficulties with enforcement should be elevated in the document as a significant aspect of the access to justice problem
- There should be investment in capturing data that can be used to monitor and evaluate dispute resolution schemes and legal assistance delivery, including longitudinal data
- Tikanga-based resolution services are imperative
- Access to dispute resolution would be improved if there was a streamlined, single point of entry to all government dispute resolution services that was consumer-centred and accessible via multiple channels

- Need to acknowledge disparities in resources between victim-survivors and perpetrators, barriers for disabled women and refugee and migrant women, as well as a need for upskilling to ensure that disabled men and women can participate in the courts
- More planning and thought needs to go into the physical spaces that justice is occupied by and the limitations of those spaces (i.e. limitations of physical buildings)
- Different approach needs to be tried for procedure in the senior courts.

Working group response to the “Dispute resolution” goal

We substantially redrafted this section into Waypoint 3, “Dispute resolution—from initiation to enforcement—is accessible and equitable”, integrating this feedback along with feedback that was provided for what was previously 1.2, “Increase communities’ knowledge to support dispute prevention and early resolution.” The re-drafted section is intended to be more inclusive of different types of dispute resolution while also explicitly acknowledging that not all dispute resolution is suitable for all cases and that the courts, in our constitutional arrangements, have a particular role.

What the submissions said about the “Systems knowledge” goal

Most submitters identified or strongly identified with the goal of “System knowledge” and there were few specific suggestions about rewording it.

There were suggestions for additional actions:

- Develop an economic analysis of the impact of a legal problem on society via productivity and increased use of other services such as health services (mental wellbeing as one aspect)
- Explore alternative civil justice systems (non-colonial) and/or explore establishing a separate Māori justice system.

Working group response to the “Systems knowledge” goal

We have adopted the suggestions that:

- The national mechanism should not just monitor but should actively promote sound, evidence-based improvements
- Different views of knowledge should be included—longitudinal, both national and local
- Funding for evaluation should be included as part of the goal (included in the action as “invest”).

We added the suggestions for additional actions.

Other suggestions were used as part of the reshaped plan for the National Observatory:

- Address structural problems, such as family court professionals being separate from other family support services
- System monitoring should be at both a local and national level.

One submitter suggested positioning the justice system in a wider social context, as there are many factors which feed into access to and experiences of civil justice that require cross-sector engagement.

Other goals suggested and Working Group response

Several submitters suggested goals that are currently principles (e.g., people centric, innovation) so their feedback was part of reshaping that section.

Other goals submitters mentioned included:

- Measurable outcomes for Māori (with consequences for failure)—this is possible as part of Waypoint 4
- Accessible law for everyone—this can be seen as part of Waypoint 1
- Increased expertise in dealing with vulnerable members of society who are accessing the courts—this can be seen as part of Waypoint 2
- Removal of nepotism and cronyism—identifying if this is a problem can be achieved through Waypoint 4
- Better outcomes for victims—as this is a civil justice framework, this is outside the scope
- A costs regime that promotes access to justice—this can be seen as part of Waypoint 3
- Make systems easier for older people and their families (in particular in health/medico-legal settings)—this can be seen as part of Waypoint 1.

Suggested actions

Background

We outlined some suggested actions under each goal, meant to provide a starting point to stimulate discussion on how we might go about working towards the goals.

Goals	Suggested actions
1.1 Increase communities' knowledge to support dispute prevention and early resolution.	<ul style="list-style-type: none"> • Strengthen civics education both in schools and in the wider community so that people understand the fundamental components of how our legal system works. • Provide basic education on commonly encountered legal needs (for example, tenancy, consumer) with an emphasis on information-seeking strategies so that information can be accessed when needed. • Strengthen community capability to engage in negotiation, mediation, and other forms of dispute resolution.
1.2 Increase community access to legal information and self-help tools.	<ul style="list-style-type: none"> • Strengthen the provision of legal information by, for example, developing an Aotearoa New Zealand portal website that incorporates guided pathways, action-focused tools, and connections to in-person assistance.² • Further develop 'smart tools' to help with navigating information and undertaking tasks to solve legal problems. • Develop materials in formats to reach different communities, including by presenting materials in Te Reo Māori and other languages.
2.1 Increase the availability of affordable legal services to help people solve their	<ul style="list-style-type: none"> • Evaluate current non-lawyer provided services and build evidence-informed solutions to improve and/or extend these services.

² This target is taken from the report David Turner and Bridgette Toy-Cronin *Online Legal Information Self-Help in Aotearoa: An agenda for action* (University of Otago, 2020). The portal suggestion is based on models such as Canada's "Steps to Justice" website: <<https://stepstojustice.ca/>>.

civil justice problems.	<ul style="list-style-type: none"> • Encourage innovation in service provision (for example, through the development of regulatory ‘sandboxes’³ to trial programmes of new classes of legal actors such as navigators and limited licences). • Increase legal aid funding and make the funding process more accessible to the public and lawyers. • Provide encouragement and incentives to experienced lawyers providing legal services for free or at greatly reduced rates.
2.2 Increase legal service providers’ knowledge and understanding of communities and their needs.	<ul style="list-style-type: none"> • Maintain an up-to-date and sufficiently detailed understanding of legal need in different communities and how this is changing over time, using internationally recognised and validated means such as legal needs surveys. • Strengthen and, where they do not already exist, introduce law school programmes that create opportunities for students to connect with community legal needs and to educate students about just dispute resolution. • Ensure law schools admit and educate students from diverse backgrounds. • Ensure legal education includes tikanga Māori and Te Reo Māori. • Continue to develop and strengthen diversity and inclusion initiatives for the legal profession and judiciary. • Ensure regulation of legal service providers balances the need to protect consumers with the need to provide a range of choices and price options.
3.1 Increase the availability of information about the range of dispute resolution mechanisms available in Aotearoa New Zealand.	<ul style="list-style-type: none"> • Identify the range of dispute resolution mechanisms and make this information accessible to both consumers and legal service providers. • Create effective navigation tools for people and their advisers to identify suitable dispute resolution mechanisms.
3.2 Ensure equitable access to the courts.	<ul style="list-style-type: none"> • Improve equitable access to the courts, ensuring access is determined by the need for an adjudicative decision, rather than on whether the parties can afford access to the court. • Undertake measures that enhance the goal to have a just, speedy, and inexpensive determination of disputes in court (for example, investigating models to increase judicial supervision in pursuit of these goals). This should include changing court rules, and examining more fundamental ways of court reform, to achieve the goals. • Ensure process and physical spaces are inclusive and informed by tikanga. • Create easier and cheaper enforcement procedures, to ensure that the agreements reached by dispute resolution mechanisms are realised.
4.1 Increase knowledge of how the system is currently operating and evaluate and monitor innovation and change.	<ul style="list-style-type: none"> • Invest in capturing data that can be used to monitor and evaluate dispute resolution schemes and legal assistance delivery, including longitudinal data. • Share data about successful dispute resolution schemes and how these can be applied in other settings, including online schemes and pilots. • Create or strengthen institutions that can analyse and share data about dispute resolution schemes to increase system-wide learning and knowledge. • Develop a register of work to encourage collaboration and reduce duplication.

People were asked to respond to the following questions:

³ A regulatory sandbox allows a regulator to experiment with new services to determine how best to regulate them. It amounts to a live experiment in a controlled environment. Utah in the United States has established a regulatory sandbox for legal services: <<https://utahinnovationoffice.org/>>.

7. Do you feel the current suggested actions in each goal provide your organisation with sufficient guidance?
8. Which suggested actions do you think will be particularly relevant to your work?

What submissions said

Many submitters made suggestions about specific wording changes or additions to the suggested action points. These sometimes contradicted each other, for example one submitter said there should be portal website for legal information for New Zealand and another said this was too specific and should be removed.

Working Group response

We have used the feedback to make wording changes, additions, and deletions to the actions.

Appendix 1: Consultation Document questions

These are the questions as worded in the online questionnaire and in the Wayfinding Consultation Document. They were also discussed at the *Wayfinding* hui.

- Q1. How necessary do you think a national structure is to ensure the success of *Wayfinding for Civil Justice*?
- Q2. If you consider a national structure is necessary, what form and scale do you think it should take?
- Q3. If a national structure extended the work of an existing organisation or body, which organisation or body do you think would be most appropriate?
- Q4. How should Te Tiriti o Waitangi be reflected in *Wayfinding for Civil Justice*? Do you agree with the approach suggested of embedding Te Tiriti o Waitangi into the foundation of *Wayfinding for Civil Justice*, rather than having it as a separate principle?
- Q5. To what extent do you identify with the principles that we have stated to guide the approach to the goals? Do you think they are relevant to your work?
- Q6. To what extent do you identify with the goals stated? What other goals do you think should be added?
- Q7. Do you feel the current suggested actions in each goal provide your organisation with sufficient guidance?
- Q8. Which suggested actions do you think will be particularly relevant to your work?